

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Study Session

March 19, 2001  
6:00 p.m.

Council Conference Room  
Bellevue, Washington

PRESENT: Mayor Mosher, Deputy Mayor Marshall, Councilmembers Creighton, Davidson, Degginger, Lee, and Noble

ABSENT: None.

1. Executive Session

Deputy Mayor Marshall opened the meeting at 6:00 p.m. and announced recess to executive session for approximately 45 minutes to discuss one item of pending litigation and one item of potential litigation.

The meeting resumed at 6:45 p.m. with Mayor Mosher presiding. He welcomed 25 students from the American Government class at Northwest College in the audience.

2. Study Session

(a) Proposed Cooperative Agreement with Sound Transit

City Manager Steve Sarkozy noted the City's partnership with Sound Transit and the Washington State Department of Transportation (WSDOT) to fund and construct the Access Downtown project.

Transportation Director Goran Sparrman said work to date on the Access Downtown project has been focused on the environmental process and preliminary design and engineering. He recalled that final federal approval for the project was received last month. Mr. Sparrman said the City now needs to develop an agreement framework that will move the project forward with its regional partners. The proposed Cooperative Agreement establishes a framework for future project-specific agreements. Staff will return on April 16 with a formal agreement for Council action. The Sound Transit Board is scheduled to take action on the agreement at its April 12 meeting.

Rick Logwood, Project Manager, said the proposed Cooperative Agreement formalizes the partnership of the City of Bellevue, Sound Transit, and WSDOT. It limits Bellevue's obligation to existing revenues and clarifies that any changes in costs and/or revenues will require

legislative approval. The Cooperative Agreement provides a framework for future project-specific agreements.

Mr. Logwood reviewed that Access Downtown is a series of projects that will improve travel to, from, and within downtown Bellevue and I-405. Key components include:

- HOV (high-occupancy vehicle) direct access interchange at NE 6<sup>th</sup> Street,
- Reconstruction of the NE 4<sup>th</sup> and NE 8<sup>th</sup> Street interchanges,
- Access ramps at SE 8<sup>th</sup> Street interchange,
- Widening I-405 and preserving future options to add one lane in each direction, and
- Additional lanes on NE 4<sup>th</sup> Street, NE 8<sup>th</sup> Street improvements, and local street and intersection improvements.

Mr. Logwood described programmed revenues by agency: City of Bellevue, \$51 million; WSDOT, \$10 million; and Sound Transit, \$103 million. He displayed and reviewed the project schedule. Environmental Impact Statement (EIS) analysis began in 1994 and preliminary engineering activities were initiated in 1999. Construction contracts are nearly ready to be executed for the following Phase I mitigation and local street improvements: SE 8<sup>th</sup> Street interchange improvements, improvements at NE 8<sup>th</sup> Street and 116<sup>th</sup> Avenue NE, and the NE 2<sup>nd</sup> Street extension. Phase II improvements include major interchange projects at NE 8<sup>th</sup>, NE 6<sup>th</sup>, and NE 4<sup>th</sup> Streets, as well as the realignment of 114<sup>th</sup> Avenue SE and intersection and lighting improvements on 112<sup>th</sup> Avenue NE.

Mr. Logwood explained that the financial plan for the project anticipates and balances programmed expenditures against revenue availability. He emphasized that the Cooperative Agreement does not obligate the City to anything more than what has been authorized by legislative authority.

Mr. Logwood described project-specific agreements for the following components of the overall project: 1) SE 8<sup>th</sup> Street interchange, 2) NE 6<sup>th</sup> Street widening, 3) NE 2<sup>nd</sup> Street extension, 4) NE 8<sup>th</sup> Street at 116<sup>th</sup> Avenue NE, and 5) the NE 4<sup>th</sup>, 6<sup>th</sup>, and 8<sup>th</sup> Street interchanges on I-405. Design for the three interchanges on I-405 is being completed by WSDOT. Mr. Logwood noted that Consent Calendar item 8(i) approves an agreement in which Sound Transit will acquire needed right-of-way and convey and dedicate those rights-of-way to the City of Bellevue. Construction for this component will be administered by WSDOT and cost sharing is as follows: Sound Transit, 75%; City of Bellevue, 16%, and WSDOT, 9%.

Mr. Logwood said project-specific agreements will be discussed in more detail with Council as the design progresses and costs, including right-of-way acquisition costs, are better defined. Next steps include:

- Approval of right-of-way acquisition Cooperative Agreement with Sound Transit [Item 8(i) on Regular Session Consent Calendar].
- Approval of Transportation Center Expansion Agreement with Sound Transit [Item 8(j) on Regular Session Consent Calendar].
- Award of Transportation Center construction contract is scheduled for April 2, 2001.

- Council approval of Access Downtown Project Cooperative Agreement with Sound Transit is scheduled for April 16, 2001.
- Council approval of the proposed transfer of 80% of construction funds necessary for the SE 8<sup>th</sup> Street interchange to WSDOT is scheduled for April 16, 2001.
- Award of construction contract for intersection improvements at NE 8<sup>th</sup> Street and 116<sup>th</sup> Avenue NE is scheduled for May 2001.
- Approval of construction management agreement with WSDOT for SE 8<sup>th</sup> Street is scheduled for May 2001.

In response to Mr. Degginger, Mr. Logwood said construction management negotiations have not been completed. In response to Mr. Noble, Mr. Sparman said the Access Downtown Executive Committee analyzed the design/build option and concluded there would be negligible cost savings and potentially significant risks with that approach for this particular project.

(b) Status of AT&T Upgrade and Availability of Advanced Telecommunications Services

Mr. Sarkozy introduced this agenda item in reference to Council's goal that Bellevue become a Smart City in terms of technology and broadband service. He distributed copies of a letter sent by him to AT&T Broadband Services in Redmond constituting a "Notice of Substantial Violation/Breach of Franchise." Mr. Sarkozy said staff is exploring options for bringing advanced telecommunications services to Bellevue residents and businesses.

Nora Johnson, Transportation Assistant Director, said residents and the City have expressed dissatisfaction about delays in AT&T's service upgrade. Due to significant delays in AT&T's schedule, the City took the strongest action possible at this point by sending the notice of violation.

David Kerr, Interim Franchise Manager, said the current franchise agreement with AT&T expires in 2004. AT&T's last cable upgrade to 77 channels was completed in 1997. In February 2000, Council approved an Institutional Network (I-Net) agreement with AT&T. The City and AT&T issued a joint announcement that the upgrade would be completed and broadband services would be available in Bellevue by December 31, 2000. Under the I-Net agreement, AT&T promised to provide a \$1.4 million fiber optic cable network connecting 31 remote City facilities at no cost to the City. A broadband cable upgrade was scheduled to occur in conjunction with the I-Net project. In October 2000, AT&T provided the City with a revised preliminary construction schedule indicating construction would not be completed until December 2001. The first phase of the plan released in October was scheduled for completion this month.

Mr. Kerr said City staff met with AT&T last month. At that time, AT&T reported they stopped construction of the upgrade plan in November 2000. AT&T recently announced the layoff of 450 employees, primarily from the construction and engineering areas, in this region. The I-Net has not been completed and AT&T reports that its construction budget is under review. The City sent a notice of violation to AT&T dated March 14, 2001 requiring that AT&T resume construction of the I-Net project and provide a deployment schedule to the City.

Mr. Kerr said AT&T has 60 days to submit a formal response to the notice of violation. AT&T's options are to: 1) explain why they do not agree that a breach of the franchise agreement has occurred, 2) cure the breach/violation, or 3) provide a plan acceptable to the City for curing the violation of the franchise.

Mayor Mosher expressed his disappointment with the current situation and AT&T's failure to perform as agreed.

Mr. Noble is frustrated as well and concerned because Council promised citizens it would provide enhanced telecommunications services to the community. He is pleased with the City Manager's letter to AT&T and feels it is appropriate for the City Manager to continue to push this issue.

Dr. Davidson noted AT&T crews working in his neighborhood. Mr. Kerr said AT&T continues to maintain its cable network, but the company has notified the City that no work has been completed on the I-Net upgrade since November.

Mr. Lee is surprised and disappointed that AT&T has not followed through on its commitments. He suggested imposing a financial penalty on AT&T as an incentive to complete the I-Net work. In response to Mr. Lee, Mr. Kerr said no nodes of the system have been activated by AT&T.

Mr. Degginger noted that Section 6 of the agreement states AT&T will provide monthly progress reports. The agreement also states that the intentional evasion or attempt to evade a material provision of the franchise requirements is a basis for revocation or termination of the franchise. He said it appears AT&T has crossed the line in this regard. Mr. Sarkozy said the matter will be pursued with the City's legal department.

Mr. Creighton is extremely disappointed with the delays and interested to hear about the City's options at this point.

Ms. Johnson reminded Council that the telecommunications industry is primarily regulated by the federal government. Historically the City's role has been one of a franchisor and permitter, but in the past few years the City has adopted a more active liaison role with telecommunications providers.

Moving to a presentation of the City's options, Mr. Kerr noted that the most immediate opportunities for broadband deployment in Bellevue are with incumbent operators such as AT&T and Qwest. A wireless Internet access provider, Metricom, anticipates launching its Ricochet 2 network in Bellevue this month. Mr. Kerr said expanded DSL service provides one broadband alternative to cable modem service. Qwest indicates it will expand DSL service in Bellevue beginning in 2001 and extending through 2002.

In terms of competitive cable providers, Mr. Kerr said Western Integrated Network (WIN) has submitted an application for a competitive broadband franchise in Bellevue. This provider recently received a 10-year cable franchise in Seattle. Staff will continue to work with this provider. RCN and Wide Open West (WOW) previously submitted franchise applications which are now inactive. Millennium Digital Media is a small cable operator serving portions of

Bellevue. Millennium offers some broadband services but does not plan to expand service in Bellevue in the near future. Mr. Kerr discussed the following additional options:

- Private/public partnership – Staff continues to explore joint venture or partnership opportunities with service providers.
- Wireless broadband systems – Staff is actively investigating the feasibility and cost of this option.
- Utility infrastructure fiber system – Staff is actively studying the feasibility and cost of this option with City Net. Technologies have been developed that make it possible to use existing municipal utility infrastructure (e.g., sewers and/or storm sewers) to deploy a municipal fiber network.
- Municipal cable overbuild – Mr. Kerr said most cities that have pursued this approach have the advantage of managing their own electrical utility. He noted this is an expensive and long-term option that staff is not actively exploring at this time.

Mr. Kerr said staff will continue competitive cable franchise negotiations with WIN while exploring the options just described.

In response to Dr. Davidson, Mr. Kerr said a number of telecommunications service providers are installing fiber in Bellevue, primarily to serve the business district. These providers do not have plans to provide broadband service to residential areas.

Mrs. Marshall questioned whether Puget Sound Energy has any plans to install fiber optic cable in Bellevue. Mr. Kerr said the City is just beginning negotiations with Puget Sound Energy to renew its franchise agreement for providing electrical and natural gas services to Bellevue. If Puget Sound Energy is interested in providing broadband services, the City is willing to engage in such discussions.

Mayor Mosher thanked staff members for the presentation and their work to explore options. Mr. Lee asked if an interim solution is possible. Interim Information Services Director Toni Cramer said some areas of Bellevue do not have good access to broadband services. While most areas do have access, it is satellite or wireless based and very expensive. The City is aggressively pursuing wireless options offering low initial capital investment and expansion capability into the future. She noted that DSL service to Councilmembers' homes is currently an option at a cost of \$130 per month.

### 3. Council Business [Regular Session Agenda Item 6]

In light of additional time left for the meeting, Mayor Mosher suggested Councilmembers report on council business.

Mrs. Marshall discussed the use of sandwich boards for off-premise commercial advertising, primarily by mattress retailers in the Overlake area. She has received communications from citizens who are concerned about the safety hazards for pedestrians and motorists as a result of this type of advertising. Mrs. Marshall proposed these safety concerns be addressed through an amendment to the City's sign code. There was Council consensus to direct staff to prepare such an amendment for Council review and consideration.

Mr. Creighton traveled with a Greater Seattle Chamber of Commerce group to a conference in Washington, D.C. Mr. Creighton and Mr. Degginger met with members of Congress to discuss various issues including education, energy policy, and transportation, and specifically the potential for full-time HOV improvements to the I-90 corridor. Mr. Creighton toured a local transit system in Bethesda, Maryland, and noted Bellevue's efforts to develop a local circulator service.

Mr. Degginger said he was pleased with the opportunity to spend time with other elected officials on the Washington, D.C., trip. He said the region's congressional representatives are actively addressing energy and water issues.

Mr. Noble and Mrs. Marshall attended a joint meeting of the Puget Sound Regional Council growth management and transportation policy boards in which the Metropolitan Transit Plan, Destination 2030, was adopted. Mr. Noble thanked Bellevue staff members for their role in updating the plan.

Mr. Lee attended the National League of Cities meeting in Washington, D.C., and met with members of Congress regarding I-90 corridor improvements and pipeline safety.

Dr. Davidson attended the NLC conference where he participated in a discussion about Lake Tapps as a potential water supply source. He attended a regional water purveyors meeting upon his return to Bellevue.

Mayor Mosher attended the NLC conference. He said the NLC Energy, Environment and Natural Resources Committee will meet in Bellevue on September 28 and 29 to discuss water infrastructure financing, energy policy, and the Clean Air Act. Upon his return to Bellevue, Mr. Mosher attended the Cascade Water Alliance meeting and a tri-county meeting on salmon recovery. He met with the Chinese Consul General from San Francisco to discuss potential sister cities for Bellevue.

Mr. Creighton noted a meeting in Washington, D.C., with the Secretary of Education, who will be visiting Seattle within the next few weeks.

At 8:05 p.m., Mayor Mosher declared a five-minute break before reconvening for the regular session.

Myrna L. Basich  
City Clerk

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